STATE OF MICHIGAN

COURT OF APPEALS

ADDMS GUARDIANSHIP SERVICES, INC., Conservator for JEFFREY ALLAN, and BETH ALLAN,

Plaintiffs-Appellees,

v

WILLIAM BEAUMONT HOSPITAL and RIZWAN QADIR, M.D.,

Defendants-Appellants.

UNPUBLISHED
February 1, 2007

No. 268443
Oakland Circuit Court
LC No. 2005-064730-NH

Before: Borrello, P.J., and Jansen and Cooper, JJ.

PER CURIAM.

Defendants appeal by leave granted from a circuit court order denying their motion for partial summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This claim arises out of defendants' treatment of plaintiff Beth Allan's husband, Jeffrey Allan. The cause of action accrued in September 2004 and the two-year limitations period, MCL 600.5805(6), expired in March 2005, after tolling as provided by MCL 600.5856(c). Defendants asserted that any claims not expressly included in the original notice of intent were time barred, as were plaintiffs' claims against Dr. Qadir, who was not added to this action until October 2005. Plaintiffs asserted that all claims were timely pursuant to the disability saving or grace period for insanity, MCL 600.5851(1), and that, while this Court held otherwise in *Vega v Lakeland Hosp at Niles & St. Joseph, Inc*, 267 Mich App 565; 705 NW2d 389 (2005), that decision should be given prospective effect only. The trial court agreed that *Vega* did not apply retroactively and thus denied defendants' motion.

The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000). The retroactive effect of a court's decision is a question of law that this Court also reviews de novo. *Johnson v White*, 261 Mich App 332, 336; 682 NW2d 505 (2004).

"Generally, judicial decisions are given full retroactive effect." *Adams v Dep't of Transportation*, 253 Mich App 431, 435; 655 NW2d 625 (2002). "However, where injustice might result from full retroactivity, [courts have] adopted a more flexible approach, giving

holdings limited retroactive or prospective effect." *Lindsey v Harper Hosp*, 455 Mich 56, 68; 564 NW2d 861 (1997). "Prospective application is appropriate . . . when the holding overrules settled precedent or decides an issue of first impression whose resolution was not clearly foreshadowed." *Holmes v Michigan Capital Medical Ctr*, 242 Mich App 703, 713; 620 NW2d 319 (2000). Because the *Vega* Court decided an issue of first impression and established a new principle of law regarding the applicability of the disability grace period of MCL 600.5851(1) to medical malpractice claimants, the trial court properly concluded that *Vega* should be given prospective application only.

Affirmed.

/s/ Stephen L. Borrello
/s/ Jessica R. Cooper